

# DIRECTIVE

## JOB TRAINING PARTNERSHIP ACT

Number: D98-2

Date: August 11, 1998  
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TO: SERVICE DELIVERY AREA ADMINISTRATORS  
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS  
JTPD PROGRAM OPERATORS  
EDD JOB SERVICE OFFICE MANAGERS  
JTPD STAFF

SUBJECT: EMPLOYMENT GENERATING ACTIVITIES

### EXECUTIVE SUMMARY:

#### **Purpose:**

This Directive provides guidance to Service Delivery Areas (SDA) for implementing the Employment Generating Activities waiver of the Job Training Partnership Act (JTPA) adopted by the State of California.

#### **Scope:**

Implementation of employment generating activities as an optional waiver is restricted to SDAs that have submitted the Waiver Checklist and Performance Agreement to the Job Training Partnership Division, as required in JTPA Directive D97-27.

#### **Effective Date:**

This Directive is effective upon the date of publication.

### REFERENCES:

- JTPA, Section 141(q)
- Title 20, Code of Federal Regulations (CFR), Part 627.225
- Public Law 104-208
- Public Law 105-78
- Department of Labor (DOL), Training and Employment Information Notice 11-96, November 8, 1996, Subject: Statutory and Regulatory Waiver Authority of the JTPA and Wagner-Peyser Act

- DOL Training and Employment Guidance Letter 6-96, April 1, 1997, Subject: Guidelines for Implementing Job Training System Improvements Through Waivers of the JTPA and the Wagner-Peyser Act
- JTPA Directive D97-27, Subject: Implementation of JTPA Waivers

### **STATE-IMPOSED REQUIREMENTS:**

This Directive contains state-imposed requirements that are shown in ***bold, italic*** type.

### **FILING INSTRUCTIONS:**

This Directive finalizes Draft Directive DD-3, issued for comment on July 15, 1998. Retain this Directive until further notice.

### **BACKGROUND:**

Prior to the Amendments of 1992, employment generating activities were permitted under the JTPA. Allowable activities included encouraging expansion, relocation, and creation of business opportunities. These activities were intended to result in increased employment opportunities for JTPA-eligible individuals. While the JTPA amendments disallowed the use of employment generating activities, normal employer contacts along with job development activities and participation on economic boards and commissions were still allowed. The JTPA prohibits the use of funds for employment generating activities, economic development, investment in revolving loan funds, capitalization of business, and the investment in contract bidding resource centers with the exception of developing On-the-Job Training (OJT) opportunities pursuant to Title 20 CFR, Section 627.240.

The DOL Appropriations Act of 1997 (Public Law 104-208) provides authority for the Secretary of Labor to grant statutory and regulatory waivers of JTPA and Sections 8, 9, and 10 of the Wagner-Peyser Act, with specified exceptions. This authority was extended by the DOL Appropriations Act for 1998 (Public Law 105-78). States could apply for waivers by submitting a plan including, but not limited to, the goals to be achieved, the expected outcomes, a description of the individuals impacted by the waivers, the monitoring process, and the public review and comment process. The State of California applied for 12 waivers, 3 mandated statewide waivers and 9 optional waivers. The DOL subsequently approved the waivers requested, with the exception of two optional waivers. The Employment Generating Activities waiver is one of the approved optional waivers.

### **POLICY AND PROCEDURES:**

***California adopts the waiver authorized by DOL allowing certain JTPA funds to be utilized for employment generating activities.***

***The SDAs may engage in employment generating and economic development activities that directly benefit JTPA participants by resulting in training or job placement for such participants. Funding for these activities shall be limited to a total of 5 percent from JTPA Title II-A 77 Percent and/or Title III 50 Percent formula allocated funds and may be used to support local economic development activities. In smaller SDAs where 5 percent is less than \$50,000 of such funds, SDAs may use up to \$50,000. In all other SDAs, such funds may not exceed \$400,000.***

***These funds must remain in the control of the SDA and may not be redirected, in whole or in part, to any other agency. Subcontracting for services will not be precluded; however, the SDA will remain accountable for the oversight and expenditure of these funds for JTPA purposes.***

***In addition, this funding may not be used to supplant or duplicate facilities or services available in the area from federal, state, or local sources. Such funding may only be used for activities which otherwise would not be available in the area.***

***Allowable activities include those which encourage the creation of business opportunities, business expansion, and other activities that result in increased employment opportunities for JTPA-eligible participants. These may include:***

- ***Promoting the use of first-source hiring agreements;***
- ***Vouchering services in support of various enterprise zone efforts;***
- ***Collective marketing of services available through JTPA with local economic development practitioners;***
- ***Advertising to industry clusters that match the skill sets of JTPA participants; and***
- ***Active participation with local business resource centers to provide technical assistance to small and new businesses to reduce the rate of business failure.***

***The JTPA funds allocated for employment generating activities shall not be used for:***

- ***Foreign travel;***
- ***The operation of economic development corporations except for explicitly accomplishing allowable activities;***
- ***Business advocacy organizations except for explicitly accomplishing allowable activities;***
- ***County general funds;***

- ***Funding or operating private or public financial institutions (such as the creation of revolving loan funds, investment in industrial park infrastructure, financing of lighting, building materials or water/sewage systems); and***
- ***Business relocation.***

***Employment generating activities may be charged to either program or administrative cost categories. Activities which benefit any JTPA participant or group(s) of JTPA participants may be charged to the program cost category. The SDAs must maintain adequate documentation to support the allocation of costs to the appropriate category.***

**ACTION:**

Bring this Directive to the attention of all affected staff.

**INQUIRIES:**

Please direct inquiries about this Directive to your program manager at (916) 654-7799 or Georganne Pintar, Policy Unit Manager, at (916) 654-7611.

/S/ BILL BURKE  
Assistant Deputy Director